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SIPDIS

STATE FOR EAP/MLS AND DRL/AWH

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TAGS: [PHUM](#) [PGOV](#) [PREL](#) [VM](#)

SUBJECT: SHOW TRIAL OF DEMOCRACY ACTIVISTS SHOWCASES CHALLENGES TO
PROMOTING HUMAN RIGHTS IN VIETNAM

REF: A. A) 09 HANOI 820: GVN TELEVISES DISSIDENT "CONFESSIONS"

[B](#). B) 09 HANOI 330: PARTY SECRETARY WARNS AGAINST SELF-EVOLUTION

[C](#). C) 09 HANOI 526: OCTOBER CONVICTION BLOC 8406 ACTIVISTS

[D](#). D) 09 HANOI 1084 AND PREVIOUS: DECEMBER CONVICTION OF TRAN ANH KIM

[E](#). E) 09 HCMC 673 AND PREVIOUS: INDICTMENT AND ARRESTS OF DINH, TRUNG, THUC AND LONG

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CLASSIFIED BY: Kenneth J. Fairfax, Consul General, U.S.
Consulate General Ho Chi Minh City, Department of State.
REASON: 1.4 (b), (d)

[1](#)1. (SBU) Summary: The trial of four pro-democracy advocates, including prominent lawyer/Fulbright scholar Le Cong Dinh and activist and blogger Nguyen Tien Trung, opened and closed in HCMC on January 20. All four were convicted for "attempting to overthrow the state" and given sentences ranging from five to sixteen years in prison followed by additional years of close supervision. While the verdicts -- reached after fifteen minutes deliberation -- were hardly surprising, the one-day trial nonetheless provided an instructive example of how the GVN/CPV recasts peaceful political speech into criminal acts. Dinh confessed to joining a political party other than the CPV (and thus committed a "subversive act" under Vietnamese law), but he did not admit to doing anything wrong. With its lightning speed and the court's refusal to acknowledge multiple charges of prisoner abuse, forced confessions and evidence tampering, the trial also highlighted that Vietnam has a long way to go before it produces a professional, independent judiciary. CG attended the trial and afterwards gave a statement, drawing from cleared guidance, sharply critical of the trial, which was widely covered in the international press though not locally. On January 21, the Embassy issued a statement expressing concern over the convictions and calling for the release of Dinh and the others. End summary.

A SHORT ROAD TO "GUILTY"

[1](#)2. (SBU) On January 20, the trial of four individuals charged with the capital offense of attempting to overthrow the state of Vietnam took place in HCMC. The defendants were prominent lawyer and Fulbright alumni Le Cong Dinh, blogger and democracy advocate Nguyen Tien Trung, Internet entrepreneur Tran Huynh Duy Thuc and democracy advocate Le Thang Long. A significant portion of the 10 hour trial was spent reading the very lengthy list of charges against the four three times (with only minor variations): once near the opening of the trial as the "indictment," once again as the "results of the prosecutors' investigation," and a third time as the "official verdict of the court." Once the proceedings were finished, judges deliberated just 15 minutes before returning their verdict and sentences for the four defendants. Tran Huynh Duy Thuc, who was portrayed as the leader of the subversive group, was given 16 years in prison followed by five years parole. Nguyen Tien Trung was given

seven years plus three years parole. Le Cong Dinh and Le Thang Long were both given five years plus three years parole.

¶3. (SBU) No reporters or observers were allowed in the courtroom, but a limited number of foreign observers received permission to watch via closed circuit TV from a separate room in the same building. CG joined the Ambassadors of the EU and Denmark plus political officers from the Canadian and Australian Missions as the only foreign diplomats allowed to observe the trial. Three foreign reporters, representing AP, Reuters and AFP, were also present, as was a Vietnamese reporter working for the German news agency DPA. Approximately 30 local Vietnamese reporters were also in attendance. Foreigners could not bring in cell phones, cameras or any other electronic devices, but communications by representatives of local, state-owned media were relatively unrestricted. As the trial unfolded, it became abundantly clear that the reason for the restrictions was so that there would be no digital proof of any incidents of official misconduct during the trial. At several points during the proceedings, the audio portion of the CCTV feed was either turned off or drowned out with loud static just as a defendant or defense attorney attempted to counter or contextualize information presented by the court. Family members were also banned from the courtroom but allowed to watch from a second room equipped with a CCTV feed. Based on CG's personal conversations with family members as well as an interview that appeared on BBC's Vietnamese service, the audio portion of their CCTV feed was also cut on multiple occasions during the trial, as it had been in the room set aside for journalists and diplomats.

GUILTY OF THE CRIME OF DEMOCRACY

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¶4. (SBU) While Le Cong Dinh pleaded guilty under what was obviously a very carefully negotiated -- and ultimately successful -- bid for leniency, the nuanced wording of his admission of guilt was highly instructive. Dinh stated that he had no defense since he had done nothing that needed defending. Instead, he simply admitted that under the constitution of Vietnam, the Communist Party of Vietnam (CPV) is the only party and the country's permanent leading authority. Because the Democratic Party of Vietnam (DPV) advocates the adoption of multi-party democracy in Vietnam, it is therefore an illegal, criminal organization under the law. Because he joined the DPV, Dinh admitted that he was guilty of subversion under Article 79. Apart from joining the DPV, Dinh did not admit to any other wrongdoing. In fact, he stated that neither he nor any of the other defendants in the case had any intention to ever attempt the overthrow the government of Vietnam. Instead, they (and others) simply discussed multi-party democracy as a development alternative for Vietnam. In contrast to the confession televised last summer (ref A), Dinh explicitly denied direct foreign links or influences apart from his Western education.

¶5. (SBU) While the very lengthy official indictment against the four defendants was less transparently worded than Dinh's brief confession, beneath the rhetoric of plots and subversion it did not fundamentally differ. At the heart of the indictment was the charge that the four defendants formed a group known as the "Chan (to make prosperous again) Research Group" with the intent of overthrowing the GVN. Despite this headline charge, the indictment never alleged that the group undertook or planned any violent acts or encouraged others to do so. Instead, prosecutors alleged that Thuc, as the ring-leader, had declared that 2010 would mark the beginning of the decline of the public's support for communism in Vietnam and that by 2020 the CPV would lose control of the country as the people came to support and demand expanded human rights and multi-party

democracy. Thuc was painted as the "general" in charge of a highly disciplined "cell" with roughly a dozen clearly defined roles that sounded remarkably like the communist party cells used by revolutionary groups since the time of Lenin. Rather than a military wing, however, this cell used the Internet to begin the "self evolution" of CPV members and sow dissent within the party. At its core, the charge of subversion was essentially a charge that the group advocated the "peaceful evolution" of Vietnam from a communist state to a multi-party democracy (ref B).

¶6. (SBU) Whether judging from Le Cong Dinh's carefully crafted confession or the prosecutors charges, the final conclusion is the same: because the CPV is the sole legitimate source of power recognized in the Vietnamese constitution, believing in, discussing, or advocating peaceful democratic change in Vietnam is a crime -- a crime punishable by long prison terms or even the death penalty.

A DEEPLY FLAWED PROCESS

¶7. (SBU) The quick show trial also showcased how far the Vietnamese legal system has to go before it even begins to resemble a professional, independent judiciary. Tran Huynh Duy Thuc, in particular, kept the focus on the process from the very start of opening motions, when he requested that the entire tribunal and prosecution be replaced on the grounds that they were interested parties involved in an inherent conflict of interest. Because he is being charged with attempting to overthrow the GVN and CPV, Thuc argued, he should be prosecuted and tried by an independent judiciary not composed of GVN or CPV members. His motion was denied. Thuc immediately lodged a second motion, this time requesting that the charges be laid aside on the grounds that he was tortured into giving false testimony. When he made this request, the military guard seated behind him immediately stood up to restrain Thuc but was waived back down by the judges. Thuc's remaining comments were drowned out by static and he was ordered to take his seat by a judge.

¶8. (SBU) During the various phases of the trial -- opening motions, examination of witnesses by the panel of judges, the discussion of the charges and final arguments -- Thuc and Long repeatedly lodged allegations of misconduct by investigators.

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Charges laid included numerous accounts of torture, "mental terrorism," and other acts of coercion as well as extensive tampering with physical evidence such as computer files and e-mails in order to transform entirely innocent statements into what appeared to be plans for subversive activities. Whenever judges read excerpts from Thuc's hand-written "confession," for example, Thuc replied that "while my hands wrote those words, those are not my words or my thoughts." On various occasions, he used the terms "torture," "corporal punishment," and "physical coercion" to describe how investigators had forced him to write out a confession that they dictated. In a particularly poignant exchange, one judge read an excerpt from the end of Thuc's "confession" in which Thuc had written that he had made all of the statements of his own free will without any coercion or inducement from investigators. Thuc replied that while writing that falsehood had been very painful for him, he had "no choice" but to write what he was told. Thuc repeatedly attempted to describe the exact methods used by investigators to compel his compliance, but was always cut off by judges.

¶9. (SBU) Le Thang Long provided less extensive but corroborating testimony. Like Thuc, Long complained of misconduct and abuse by investigators. The most telling example he provided was that

after investigators had been unsuccessful in forcing him to write out a false confession, they engaged in "mental terrorism" by offering to let him visit his terminally ill mother one last time only if he wrote and signed the confession they had prepared. Long refused and the visit was withheld. (Note: Of the four defendants, Long showed the most obvious signs of extreme mental/emotional stress. He was constantly twitching and his speech oscillated from lucid to disjointed and rambling. While CG is certainly not an expert, it is highly likely that a judge in the USA or other democratic country would have sent Long for a psychiatric evaluation to determine his fitness to stand trial rather than simply continuing with the proceedings. End Note.)

¶10. (SBU) Thuc and Long also attempted to demonstrate that the investigators had essentially fabricated much of the "evidence" against them by manipulating documents and e-mails. Thuc charged, for example, that the dates of e-mails had been altered to fit the chronology investigators wanted to establish in the indictment. Similarly, items were edited and taken out of their original context so that they appeared to advocate positions or actions that bore no relation to the original message. For example, Thuc said that a 4-line poem he had written in 2006 showed up as the opening of a non-existent 2008 political manifesto that investigators claimed to have found. In another example, Thuc noted that while the indictment included e-mails from both co-defendant Le Thang Long and Vietnamese-American pro-democracy advocate Nguyen Sy Binh inviting him to join the Democratic Party of Vietnam (DPV), investigators had not included -- and had presumably deleted from his e-mail account -- copies of the replies he had sent to both invitations stating that he had no intention of joining the DPV.

¶11. (SBU) While Thuc's defense lawyer, Trieu Quoc Manh, mounted what appeared to be a spirited, 30-minute defense of his client, the entire presentation was completely inaudible to observers in the CCTV room. Even though Trung pleaded guilty, his lawyer, Doan Thai Duyen Hai, also made a presentation in which he asked the court for leniency and pointed out that Trung could not possibly have taken part in the alleged "conspiracy" since the meetings and events described in the indictment took place while Trung was serving mandatory military service, where he was confined to his base by his commanders, who also controlled and censored his access to information, including visitors, personal mail, e-mail, and phone calls. More than half of Trung's defense attorney's presentation was also drowned out by static, although it was not clear if that was intentional or the result of a genuine technical glitch.

¶12. (SBU) While it is not possible for outside observers to definitively conclude whether the charges of prosecutorial misconduct leveled by Thuc and Long were accurate, the judges' own actions provided ample proof that there need be no relation between reality and official reports. Just fifteen minutes after hearing final arguments, the judges read out their pre-written 17-page long verdict. The verdict was virtually identical to both the indictment and the results of the investigation that had been read out earlier in the proceedings,

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but included a few new pieces of information. Most telling was the judges' proclamation that all statements from the defendants and their lawyers indicated that they agreed with the indictment and results of the investigation. Given the vigorous attempts by Thuc and Long as well as by the defense lawyers to object to multiple aspects of the documents, that statement was patently false.

¶13. (SBU) Asked by journalists to comment following the trial, the CG (drawing on the Spokesman's July 15 statement) expressed the USG's concern over the arrest and conviction of persons for peaceful expression of their beliefs, and called for their immediate release. The CG's statement was widely cited in the international media, though not locally. On January 21, the Embassy issued a statement along similar lines.

COMMENT

¶14. (C) This highly-anticipated and internationally publicized trial was yet another example of the decline in the GVN's tolerance for dissent of any type. The past two years of firings, harassment and arrests of reporters, activists and bloggers as well as other recent measures to restrict the public's access to information, such as the blocking of Facebook, represents a backtracking in Vietnam's human rights record. While this trial stands out for various reasons -- including the involvement of one of Vietnam's most prominent corporate and human rights lawyers who has previously defended multiple clients facing charges similar to the ones he was convicted of -- in many ways it represents a continuation of this downward trend in respect for freedom of speech and the ongoing manipulation of Vietnam's judicial system to silence voices of reform. Additionally, a new and particularly troubling turn of events is the decision by the GVN to charge dissidents with sedition, a capital crime, under Article 79, instead of under the more benign Article 88, "propagandizing against the State." Prison sentences for political activists have also increased from roughly two-and-a-half years in 2008 to the five to sixteen year sentences we have seen in recent trials (refs C-D).
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